

1 WADE ROBERTSON,
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6 *Pro-Se Plaintiff*

FILED

2008 APR 28 P 1:29

RICHARD W. WIEKING
CLERK
U.S. DISTRICT COURT
NO. DIST. OF CA. S.J.

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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN JOSE DIVISION

CRS

11 WADE ROBERTSON,

12 Plaintiff,

13 v.

14 DANIEL FRANCIS RYAN,

15 Defendant.

C08 02175 RS

COMPLAINT FOR VIOLATION
OF CIVIL RIGHTS UNDER THE
FEDERAL CONSTITUTION.

DEMAND FOR JURY TRIAL

16
17
18
19
20 Plaintiff Wade Robertson hereby alleges for his Complaint against Defendant Daniel
21 Francis Ryan on personal knowledge as to his own actions and on information and belief as to
22 others, as follows:

23
24 JURISDICTION AND VENUE

25 JURISDICTION EXISTS BY WAY OF THE FEDERAL CLAIMS

26 1. This action arises under the Constitution of the United States, particularly the Fourth
27 and Fourteenth Amendments to the Constitution of the United States, and under the laws of the
28 United States, particularly the Civil Rights Act, 42 U.S.C. §§ 1983 and 1988.

1 2. The jurisdiction of this court is invoked under the provisions of 28 U.S.C. §§ 1331 and
2 1343.

3 3. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) because it is where the
4 events complained of occurred.

5 4. Personal jurisdiction over the Defendant is proper because he is subject to the general
6 jurisdiction of the courts in this state of California---

7 (a) the Defendant is a resident of the state of California, and in addition

8 (b) the Defendant is actively employed in Palo Alto, California where a substantial
9 part of the events that give rise to the claims occurred.

10
11 **INTRADISTRICT ASSIGNMENT**

12 5. Pursuant to Civil L.R. 3-2, assignment of this action to the San Jose Division of this
13 Court is proper since a substantial part of the events that give rise to the claims occurred in Santa
14 Clara County.

15
16 **THE PARTIES**

17 6. Plaintiff Wade Robertson (hereafter "Robertson") is a citizen of the state of
18 Tennessee, in the United States of America, where he maintains his permanent residence.

19 7. Defendant Daniel Francis Ryan is a citizen of the state of California. In addition,
20 Defendant Daniel Francis Ryan is now, and at all times mentioned was a duly appointed,
21 employed and acting police officer of the City of Palo Alto, Santa Clara County, California.

22
23 **FIRST CLAIM FOR RELIEF**

24 **(For Defendants' Violation of Plaintiff's Civil Rights Under the Federal Constitution)**

25 8. On Friday April 28, 2006, Defendant Daniel Francis Ryan ("Ryan") of the Palo Alto
26 Police Department (Santa Clara County, California), unlawfully detained Plaintiff Wade
27 Robertson ("Robertson"). In doing so, Ryan acted under pretense and color of law and his
28

1 official capacity, but such acts were beyond the scope of his jurisdiction and without
2 authorization of law.

3 9. Thereafter, and also on Friday April 28, 2006, Ryan unlawfully seized Robertson
4 without a warrant and took him into police custody where Robertson was detained against his
5 will in a local police facility and also a county jail for a total detention time in excess of 12
6 hours. In doing so, Ryan acted under pretense and color of law and his official capacity, but
7 such acts were beyond the scope of his jurisdiction and without authorization of law.

8 10. The wrongful conduct of Defendant Ryan as alleged above was done unlawfully, and
9 with the specific intent to deprive Plaintiff Robertson of his rights to freedom from illegal
10 searches and seizure of his person, papers, and effects, and of his right to freedom from unlawful
11 arrest, detention, and imprisonment, all of which rights are secured to Plaintiff Robertson by the
12 Fourth, Fifth, and Fourteenth Amendment to the Constitution of the United States, and by 42
13 U.S.C.A. §§ 1983 and 1988.

14 11. As a direct and proximate result of the wrongful conduct of Defendant Ryan as
15 alleged above, Plaintiff Robertson was deprived of his freedom, suffered loss of employment,
16 and incurred legal expenses, all to his detriment in an amount to be determined at trial.

17 12. The wrongful conduct of Defendant Ryan as alleged above was done knowingly,
18 willfully, and with malicious intent, and Plaintiff Robertson is entitled to punitive damages in an
19 amount to be determined by proof at trial.

20 13. Pursuant to 42 U.S.C.A. § 1988, Plaintiff is entitled to a reasonable allowance for
21 attorney fees as a part of his costs.

22
23 **PRAYER FOR RELIEF**

24 WHEREFORE, Plaintiff Robertson re-alleges all paragraphs above and respectfully requests that
25 this Honorable Court grant an award of damages as determined by a jury from Defendant Daniel
26 Francis Ryan for:

27 (1) general damages according to proof at trial;

28 (2) special damages according to proof at trial;

- (3) punitive damages;
- (4) reasonable attorney fees;
- (5) costs of suit;
- (6) such other and further relief as this court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands trial by jury for all causes of action, claims or issues in this action which are properly triable as a matter of right to a jury.

Respectfully submitted,

Dated: April 28, 2008



WADE ROBERTSON

CERTIFICATION OF INTERESTED ENTITIES OR PERSONS

Pursuant to Civil L.R. 3-16, the undersigned certifies that as of this date, other than the named parties, there is no such interest to report.

Dated: April 28, 2008


WADE ROBERTSON

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON PAGE TWO OF THE FORM.)

I. (a) PLAINTIFFS

Wade Robertson

DEFENDANTS

Daniel Francis Ryan

(b) County of Residence of First Listed Plaintiff
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)

Attorneys (If Known)

----- PRO-SE -----

C08 02175

RS

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State ☐ 1 PTF ☐ 1 DEF Incorporated or Principal Place of Business In This State ☐ 4 PTF ☐ 4 DEF
- Citizen of Another State ☐ 2 PTF ☐ 2 DEF Incorporated and Principal Place of Business In Another State ☐ 5 PTF ☐ 5 DEF
- Citizen or Subject of a Foreign Country ☐ 3 PTF ☐ 3 DEF Foreign Nation ☐ 6 PTF ☐ 6 DEF

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881		<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 650 Airline Regs.	<input type="checkbox"/> 480 Consumer Credit	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 660 Occupational Safety/Health	<input type="checkbox"/> 490 Cable/Sat TV	<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 850 Securities/Commodities/Exchange
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury		<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 190 Other Contract			<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 195 Contract Product Liability				<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 196 Franchise				<input type="checkbox"/> 892 Economic Stabilization Act
				<input type="checkbox"/> 893 Environmental Matters
				<input type="checkbox"/> 894 Energy Allocation Act
				<input type="checkbox"/> 895 Freedom of Information Act
				<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
				<input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

VIOLATION OF CIVIL RIGHTS UNDER U.S. CONSTITUTION & CIVIL RIGHTS ACT, 42 U.S.C. s1983 & s1988

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 ☐ DEMAND \$

CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

PLEASE REFER TO CIVIL L.R. 3-12 CONCERNING REQUIREMENT TO FILE "NOTICE OF RELATED CASE". C-06-04624 (JF)

IX. DIVISIONAL ASSIGNMENT (CIVIL L.R. 3-2) (PLACE AND "X" IN ONE BOX ONLY)

☐ SAN FRANCISCO/OAKLAND

☒ SAN JOSE

DATE

4/28/2008

SIGNATURE OF ATTORNEY OF RECORD

Wade Robertson

(PLAINTIFF PRO-SE)